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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,290	07/28/2003	Curtis D. Nicks	44244-SCVTA	6476
7590	06/29/2004		EXAMINER	
Stuart O. Lowry KELLY BAUERSFELD LOWRY & KELLEY, LLP 6320 Canoga Avenue, Suite 1650 Woodland Hills, CA 91367			ADDIE, RAYMOND W	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/629,290	NICKS, CURTIS D.	
	Examiner	Art Unit	
	Raymond W. Addie	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-40 is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7 and 19 is/are rejected.
- 7) ☒ Claim(s) 3-5,8-18 and 20-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/28/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3671

DETAILED ACTION

Claim Objections

1. Claims 19, 32 are objected to because of the following informalities:

Claim 19, ln. 3, the phrase "having each having a" should be --each having a--.

Claim 32, ln. 3, the phrase "having each having a" should be --each having a--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 7, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by

Transgrud # 6,347,781 B1. Transgrud discloses a locking cover for closing a manhole.

Said locking cover comprising:

A integrally formed manhole cover assembly having:

An upper section (12, 20) for extending across a manhole and including a 1st peripheral rim for engaging an outer surface of the manhole, thus circumscribing said manhole.

A lower section (14) having a size and shape for closing the manhole and having its own peripheral rim for engaging an inner surface of the manhole, thus circumscribing the manhole.

A lock unit (18/40) for lock ably interconnecting said upper and lower sections with a peripheral margin of the manhole formed being sandwiched between said 1st and 2nd peripheral rims.

A lock post (40) carried by said upper section and a post port (18) formed in said lower section (14) for slide-through passage of said lock post (40).

Means (unnumbered, a nut, see col. 4, ln. 29) for releasably engaging said lock post for lock ably retaining the lower section in assembled relation with the upper section.

At least one shim element (16) interposed between said lock unit and said lower section for positioning said lower section with said second peripheral rim substantially seated against the inner manhole surface, when the lock unit is engaged with said lock post.

Wherein the upper and lower sections each have a generally circular shape.

See col. 3, ln. 47-col. 4, ln. 62.

In regards to Claim 19, Transgrud discloses the locking manhole cover assembly as put forth with respect to Claim 1 above; further Transgrud discloses the entire assembly is integrally molded as a single casting and can be separated into individual elements as the application requires. To that affect, Transgrud discloses the upper portion (12) can be segmented into equal halves, to ease assembly and disassembly of the upper portion (12). Hence, it is inherent that Transgrud discloses a locking cover assembly, capable closing any circular opening in a manhole structure.

Note to Applicant: Although the preamble of the claim recites an intended use for closing a manhole "formed in a soffit"; one of ordinary skill in the art, would not understand the scope of the term, without undue reliance upon the disclosure.

Therefore, the limitation is interpreted to require --A locking cover for closing a any opening in a manhole, said locking cover comprising:--.

Since the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure, which does not depend upon the introductory clause for completeness.

Allowable Subject Matter

3. Claims 3-5, 8-18, 20-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 32-40 are allowed.

Conclusion

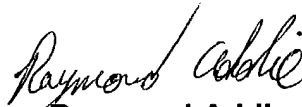
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. FR8200769 reference to Dumortier, discloses a manhole cover (3a, 3b) provided with semicircular halves. Taylor # 2,997,932 discloses a segmented manhole cover. Campagna et al. # 3,696,847 discloses a manhole closure assembly.

Hawkins # 5,769,564 discloses a segmented manhole cover assembly. Petersen et al. # 6,743,360 B2 discloses a manhole cover and debris-catching system. Wang # 4,935,129 discloses a manhole assembly with a scupper drain.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Raymond Addie
Patent Examiner
Group 3600

6/22/04